

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JAIME MELENDEZ TORRES,

Plaintiff,

v.

CIV. No. 15-0541 LH/KBM

JUAN ALTAMIRANO d/b/a
CROSS COUNTRY AUTO and
CNA SURETY d/b/a WESTERN SURETY CO.,

Defendants.

ORDER TO SHOW CAUSE

THIS MATTER is before the Court *sua sponte*. This Court issued its Initial Scheduling Order (*Doc. 16*) on January 25, 2016, ordering the parties to “meet and confer” no later than February 16, 2016, to formulate a provisional discovery plan and to “cooperate in preparing a Joint Status Report and Provisional Discovery Plan (“JSR”),” to be filed no later than March 1, 2016. *Id.* The Court also set a Telephonic Rule 16 Initial Scheduling Conference for Tuesday, March 8, 2016, at 3:00 p.m. *Id.*

In the submitted JSR, counsel for Plaintiff Jaime Melendez Torres (“Plaintiff”) and counsel for Defendant CNA Surety d/b/a Western Surety Co. (“Defendant Western Surety”) indicate that Defendant Juan Altamirano d/b/a Cross Country Auto (“Defendant Altamirano”) appeared telephonically for the meet and confer scheduled for February 15, 2016, but requested that the conference be reset. *See Doc. 27* at 1. The parties agreed to reset the conference for the following day. *Id.* Defendant Altamirano and both counsel again appeared telephonically for the conference, and Mr. Altamirano again requested that the conference be reset, this time for the same afternoon. *Id.* Both

counsel once again obliged; however, Defendant Altamirano failed to appear at the conference, which had been reset at his request for February 16, 2016, at 2:00 p.m. *Id.* Defendant Altamirano made no subsequent attempts to contact counsel for Plaintiff or counsel for Defendant Western Surety prior to the filing of the JSR. *Id.*

Defendant Altamirano likewise failed to appear at the Telephonic Rule 16 Initial Scheduling Conference held on March 8, 2016. Counsel for Defendant Western Surety indicated that she had corresponded with Defendant Altamirano prior to the hearing and advised him of the time and call-in number for the Scheduling Conference.

Federal Rules of Civil Procedure 16(f)(1)(A), 16(f)(1)(C), and 37(b)(2)(A)(vi) authorize courts to impose sanctions, including rendering default judgment against a disobedient party for failing to appear at a scheduling or other pretrial conference or for failing to obey a scheduling or other pretrial order.

Wherefore,

IT IS HEREBY ORDERED that Defendant Juan Altamirano shall file a written response by **Monday, March 21, 2016, at 5:00 p.m.**, showing cause why Federal Rule of Civil Procedure 16 sanctions, including judgment against him, should not be imposed as a result of his failure and/or refusal to participate in the preparation of the JSR or to attend the Rule 16 Initial Scheduling Conference.

IT IS SO ORDERED.


UNITED STATES CHIEF MAGISTRATE JUDGE